

REMARKS

The Restriction Requirement of May 24, 2005, has been withdrawn and a new five-way Restriction Requirement enclosed. Applicants respectfully elect examination of the invention of Group V, claims 54-64, drawn to shoes. Applicants elect with traverse with respect to Group IV, claims 42-53, and Group I, claims 1-10, and 65-73.

The Office Action states that Groups I and V – and Groups IV and V -- are related as mutually exclusive species in an intermediate final product relationship. As stated in the Office Action, distinctness is proven for claims in this relationship if the intermediate product is useful to make other than the final product.

Applicants respectfully submit that Inventions I and V, and Inventions IV and V are also related to each other as a subcombination/combination where the features of the subcombination are present in the combination. The MPEP addresses this situation:

“In applications claiming plural inventions capable of being viewed as related in two ways, for example, as both combination-subcombination and also as different statutory categories, both applicable criteria for distinctness must be demonstrated to support a restriction requirement.” [MPEP § 806.05(c)(III)]

Applicants respectfully submit that to support a Restriction Requirement among Inventions I, IV, and V, distinctness as combination-subcombination needs also to be demonstrated.

Applicants respectfully submit that Inventions I and IV are subcombinations of the combination Invention V. Further, the combination claims (Invention V) recite the same patentable features that the claims of Invention I (drawn to a composition) and Invention IV (drawn to a composite structure) do. In this situation, Applicants believe that restriction must not be made even though, as the Office Action has stated, the position is taken that the subcombinations have utility apart from the combination.

For these reasons, Applicants respectfully request that the Restriction Requirement between groups V, IV, and I be withdrawn and the claims of the inventions be examined together. Applicants further reserve the right to apply for rejoinder of inventions as appropriate during prosecution.

CONCLUSION

Applicants believe they have made a complete and responsive reply to the requirement for restriction. Further favorable consideration is earnestly solicited. The Examiner is invited to telephone the undersigned if that would be helpful to resolving any issues.

Respectfully submitted,

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